

**NEVADA DEPARTMENT OF CORRECTIONS
ADMINISTRATIVE REGULATION
305**

SEXUAL HARASSMENT PREVENTION

Supersedes: AR 305 (Temporary, 06/07/10)
Effective Date: 08/13/10

AUTHORITY:

Title VII Civil Rights Act of 1964, amended
NRS 209.131; 209.251; 613.310; 613.330
Governor's Policy Against Sexual Harassment/
Discrimination; MEMO PERD #21/07

RESPONSIBILITY

All levels of the administration, management, and supervision are responsible for the enforcement of the State's and Department's zero tolerance position regarding sexual harassment. Each is responsible for preventing and eliminating acts of sexual harassment in their areas of responsibility. Administrators, Managers, and Supervisors shall cooperate with the discrimination investigative complaint processes.

The EEO, Division Administrator manages and provides oversight and coordination of the Department's EEO Program. The Division Administrator oversees EEO training on the subjects of the Prevention of Sexual Harassment, Employer Responsibilities and Employee Rights are under the purview of the EEO Division Administrator. The EEO, Division Administrator ensures compliance with mandatory EEO investigative processes.

305.01 SEXUAL HARASSMENT

1. Sexually harassing conduct undermines the integrity of the employment relationship and will not be tolerated by anyone at the workplace or in any work related environment. Sexual harassment and the creation of a hostile work environment is a violation of Federal and State employment laws. Additionally, incidents of sexual harassment violate Department administrative regulations against sexual harassment and discrimination.

2. Sexual Harassment violates the Governor's State policy and is considered unlawful discrimination under Federal and State law. Harsh disciplinary action may be taken against

persons who commit sexual harassment, including first time offenders. Illegal sexual harassment is defined as:

“Unwelcome sexual advances, requests for sexual favors, *and* verbal or physical conduct of a sexual nature constitute sexual harassment when this conduct explicitly or implicitly affects an individual’s employment, unreasonably interferes with an individual’s work performance, or creates an intimidating, hostile, or offensive work environment.”

3. The Department regards sexual harassment as a very serious disciplinary infraction. Accordingly, the appointing authority shall, commensurate with the principles of progressive discipline, consider imposition on this very sanction, up to and including termination for any first egregious offense.

4. The Department provides a mechanism whereby employees and applicants for employment may file complaints alleging sexual harassment, to have their allegations investigated, and to make certain that appropriate corrective and/or disciplinary action is realized.

305.02 INFORMAL COMPLAINT PROCEDURES

1. Individuals who believe they have been a victim of sexual harassment should make every effort to advise the alleged harasser that the conduct/behavior is unwelcome, undesirable, and/or offensive. Tell them to STOP!

2. The individual may elect not to confront the alleged harasser. In this case, or if the conduct persists after an objection, the individual may report the incident to their immediate supervisor, any other management or supervisory official, or any EEO Program Official.

3. Alternatively, employees may report incidents of sexual harassment to the State Department of Personnel’s Investigative Unit’s Hot Line, at 800.767.7381, from anywhere in the State.

4. When notified, Managers, Administrators, and Supervisors shall:

A. Immediately enter the allegations into NOTIS and classify access to the allegations at the IG Supervisory level or above. After review, the IG retains the authority to reclassify the allegation at a lower level within NOTIS.

B. Notify the EEO official in their region, submitting relevant documentation.

C. Notify their immediate chain of command.

D. Determine if the alleged victim and alleged harasser need to be separated immediately, on a temporary basis, until the Director has made a final decision.

E. Temporary reassignments will be carried out with the assistance of Central Personnel staff.

- F. The alleged victim cannot be involuntarily reassigned.
5. Management officials will take precautions to ensure that the employee making the allegation is not subject to retaliation or intimidation.
6. EEO officials will conduct Intake Interviews as soon as is practical, and complete the Intake Report. The Intake Report will be transmitted to the State Personnel Investigative Unit, and to the Office of the Inspector General.
- A. EEO officials are responsible for NOTIS entries regarding allegations of sexual harassment filed directly with their offices. EEO officials will ensure that all allegations entered by them directly into NOTIS have an access level of IG Supervisory level or above. After the IG reviews the allegation, the IG may reclassify it to a lower level within NOTIS.
7. EEO staff and all involved management officials shall endeavor to maintain confidentiality for the alleged victim and the alleged harasser to the extent possible.
8. Department staff will allow State Department of Personnel Investigators access to any staff they believe to be relevant to the investigation of a complaint.
9. Completed Unit Investigation reports will be provided to the Director and the EEO officials.
- A. The Director may consult with any persons regarding a finding in a case.
- B. The Director may require a finding to be reviewed by the EEO Office and the Inspector General.
- C. The Director may determine a “no finding” for a complaint based on the results of an investigation and/or EEO review.
- D. The Director may find a basis for disciplinary action and refer the case to the Inspector General for further action.
10. When a management official receives a complaint from a Department employee and the allegations of sexual harassment are against a non-employee, the non-employee alleged to be responsible should not be allowed in the employee’s work area until the Director has made a final decision.
11. Filing an informal complaint with the Department and/or the State Department of Personnel’s Investigative Unit does not prohibit employees from exercising their right to file a formal complaint, regarding the same matter. Formal complaints *must* be filed with either the State Nevada Equal Rights Commission (NERC) or the Federal Equal Employment Opportunity Commission (EEOC) regulatory agencies.
12. Informal discrimination complaint case files and records are the property of the Department and confidential.

305.03 EXTERNAL FORMAL COMPLAINT PROCESS

1. Employees electing to file a formal complaint with NERC or EEOC must file their charges not later than 300 calendar days from the date of the alleged violation and/or the last action by the agency, to ensure a timely complaint.
2. NERC and/or EEOC will determine whether they will accept a charging party's allegations for investigation. If accepted, a formal charge notice will be sent to the EEO, Division Administrator.
3. Department staff who mistakenly receives a charge notice shall contact the EEO Office immediately. The charge notice shall be handled as confidential. Non-EEO officials are prohibited from responding to any formal charge or making copies of a formal charge notice.
4. EEO officials are responsible for making any inquiries required for the preparation of the Department's official agency response to NERC and/or EEOC.
5. NERC and/or EEOC will provide all findings of discrimination and/or the dismissal of a case charge to the EEO Division Administrator.
 - A. If the decision does not render a finding of discrimination, a Notice of Dismissal and a "Right to Sue" letter will be provided to the Charging Party and the EEO Office.
6. EEO officials shall refer any orders for conciliation to the Office of the Attorney General.
7. EEO discrimination complaint case files and records are confidential and are the property of the Department.

305.04 ILLEGAL RETALIATION

1. Acts of illegal retaliation are prohibited against any individual who elects to file a charge of sexual harassment, who assists with the filing of a complaint, who voices their opposition to an alleged discriminatory act, policy, or procedure, and/or who participates in an investigation. Federal and State law protects participation in any of the above aspects of the discrimination complaint and investigative processes. The Department will take immediate and appropriate action to stop and eliminate any retaliatory misconduct by employees or non-employees.

305.05 TRAINING

1. The Employee Development Manager, in coordination with the EEO, Division Administrator, will include topics on all forms of illegal discrimination and harassment in the curriculums for Pre-Service Training (custody/non-custody), Supervisory Training, and Refresher Training.
2. The EEO, Division Administrator is responsible for EEO, Prevention of Sexual Harassment and Cultural Awareness training. EEO officials conduct the prevention of sexual harassment

training for all Department staff including administrators, managers, supervisors, non-supervisory personnel, and new hires. EEO officials also conduct refresher and specialty training on the subject of sexual harassment.

APPLICABILITY

1. This regulation does not require an Operational Procedure.
2. This regulation does not require an audit.



Howard Skolnik, Director

7/20/00
Date